

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE**

DANIEL LOVELACE and
HELEN LOVELACE, Individually, and as Parents of
BRETT LOVELACE, deceased,

Plaintiffs,

Vs.

No. 2:13-cv-02289 SHL-dkv
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI; and
MARK P. CLEMONS,

Defendants.

DEFENDANTS' JOINT MOTION IN LIMINE NO. 1

Come now the defendants, Pediatric Anesthesiologists, P.A., Babu Rao Paidipalli, M.D., and Mark P. Clemons, M.D., by and through counsel of record, and move this Court in limine for an order limiting the testimony of any of plaintiffs' experts to only deviations from the recognized standard of acceptable professional practice that caused an injury that would not have otherwise occurred. No testimony should be permitted by experts as to alleged deviations from the recognized standard of acceptable professional practice that did not cause any injury to plaintiff or plaintiff's decedent, Brett Lovelace. Such testimony would be completely irrelevant pursuant to Fed. R. Evid. 402. According to Tennessee law, T.C.A. §29-26-115 specifies the elements that a plaintiff must establish to make out a claim for medical malpractice. The plaintiff must establish a deviation from the standard of care and resultant injury. Proof of deviations from the standard of care with respect to which the expert cannot affirmatively establish any causal effect is incompetent, irrelevant and would be confusing to the jury and

unduly prejudicial to defendants and, thus, must be excluded. Federal Rule of Evidence (“FRE”) 401, 402 and 403. Kilpatrick v. Bryant, 828 S.W.2d 594 (Tenn. 1993).

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CERTIFICATE OF CONSULATION

Pursuant to Local Rule 7.2(a)(1)(B), I hereby certify that on January 6th, 2015, counsel for defendants, Babu Rao Paidipalli and Pediatric Anesthesiologists, P.A., consulted with Mark Ledbetter, counsel for plaintiffs, Daniel and Helen Lovelace, via e-mail concerning the contents of this motion, and that all counsel are unable to reach an accord as to all issues pertaining to this motion.

s/W. Bradley Gilmer
W. BRADLEY GILMER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served via U.S. Mail to all counsel of record identified below:

Mark Ledbetter, Esq.
Halliburton & Ledbetter
Attorney for Plaintiffs
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this 6th day of January, 2015.

s/ W. Bradley Gilmer
W. BRADLEY GILMER